IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.1170 OF 2005
IN
SUIT NO.566 OF 2002

Smt.Maniben C. Dalal ....Plaintiff
V/s.
Kishore J. Chheda ....Defendant

Mr.K.L. Parab for the Plaintiff.
Mr.Uday Bobade with Mrs.S.M. Takavade i/b Mr.M.P. Takavade for the Defendant.

CORAM : S.J. VAZIFDAR, J.
DATED : 30TH JANUARY, 2006.

P.C. :

1. This is the Plaintiff's Chamber Summons for amendment of the suit. The suit was filed in the Small Causes Court and transferred to this Court pursuant to the orders of this Court.

2. The suit was filed for arrears of rent, illegal alteration and bona-fide requirement.

3. Subsequent events and evidence in support of the aforesaid grounds sought to be introduced by the Chamber Summons cannot be objected to. The Plaintiff has also sought to challenge a document dated 7.12.1990. The Defendant has filed a suit for

specific performance of the agreement contained in the said document. Both the suits have been ordered to be heard together. That issue therefore, can conveniently be tried in the suit being suit No.1340 of 1994. Mr.Bobade, the learned counsel appearing on behalf of the Defendant states that the Defendant shall not contend in Suit No.1340 of 1999 that the Plaintiff's defence in that suit is affected or prejudiced in any manner merely by reason of his clients having registered the alleged agreement dated 7.12.1990. It is only on the basis of this registration that the document was sought to be challenged in this suit. In view of Mr.Bobade's statement, this reason no longer survives.

4. It is true that the amendment in so far as it relates to unlawful sub-letting is a new ground. There is however, no consistencies between the grounds stated in the plaint and this ground. Moreover, the facts regarding the Defendant having shifted to another premises also has a bearing on the question of bona-fide requirement.

5. In the circumstances, the Chamber Summons is made absolute in terms of prayer (a). However, the amendment sought with respect to paragraphs 21(b),

(c), (d) and (e) and the amendment seeking to introduce the prayers (a-3) and (a-4) are disallowed with liberty to the Defendant to urge this point and defence in suit No.1340 of 1994. The above statement of Mr.Bobade is also accepted namely that it will not be contended in suit No.1340 of 1994 that the defence of the Defendant therein i.e. Plaintiff herein is prejudiced merely by reason of the document being registered. The amendment to be carried out within four weeks from today.